

**To:** CN=David Powers/OU=R10/O=USEPA/C=US@EPA[]  
**Cc:** CN=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA;allison.castellan@noaa.gov;CN=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; allison.castellan@noaa.gov;CN=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]  
**From:** CN=Don Wayne/OU=DC/O=USEPA/C=US  
**Sent:** Wed 1/16/2013 7:42:51 PM  
**Subject:** Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter  
[Waye.Don@epamail.epa.gov](mailto:Waye.Don@epamail.epa.gov)  
 (202) 566-1170  
 (202) 566-1331  
[wayne.don@epa.gov](mailto:wayne.don@epa.gov)  
[epa.gov/nps](http://epa.gov/nps)  
[allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
 (206) 553-8512  
 (206) 553-0165  
[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)  
<http://www.epa.gov/r10earth/tmdl.htm>  
[allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)  
<http://coastalmanagement.noaa.gov>  
 (embedded image)

I like Dave's suggestion.

**From:** David Powers/R10/USEPA/US  
**To:** Jayne Carlin/R10/USEPA/US@EPA  
**Cc:** Don Wayne/DC/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA  
**Date:** 01/16/2013 02:38 PM  
**Subject:** Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Its a bit awkward to respond in a letter and at the same time say in that letter that we understand that NWEA does not expect responses to letters like the one we just responded to...and we will not be responding to future letters. In addition, NWEA is involved in other CWA litigation besides OR CZARA and may send us a letter in the future that EPA (or NOAA) feel we need to respond to.

We could say something like "EPA and NOAA will consider both past and future NWEA correspondence as part of the record when we propose and make the final decision on Oregon's Coastal NPS program."

---

David Powers  
 Regional Manager for Forests and Rangelands  
 USEPA Region 10, OOO  
 805 SW Broadway, Suite 500  
 Portland, OR 97205

503-326-5874  
powers.david@epa.gov

From: Jayne Carlin/R10/USEPA/US  
To: Don Waye/DC/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA  
Date: 01/16/2013 09:30 AM  
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Hi All,

I agree with all of your reservations on whether responding to NWEA (even very generally) may not be the most effective use of our time since Nina's already told Dave and Allison that she doesn't expect responses to her letters. Her intent is to add to the record, not make more work for us responding to each letter. I plan to discuss this further with Dave Croxton, my boss, to see if there is any way we can persuade Dan to reconsider his decision.

Meanwhile, if Dan still wants to send the letter, is there any language we can use in order not to have to respond to future letters such as these? Something like....

In the future, we will not be responding to each letter as we understand you told Dave Powers, EPA and Allison Castellan, NOAA that you do not expect responses to your letters as your intent is to add to the record and provide information for EPA and NOAA when making the final decision on whether to approve Oregon's Coastal NPS program under CZARA.

Regards,

Jayne

---

Jayne Carlin, Watersheds Unit  
US EPA, Region 10  
1200 6th Ave, Suite 900 (OWW-134)  
Seattle, WA 98101-3140  
(206) 553-8512, (206) 553-0165 (fax)  
carlin.jayne@epa.gov

<http://www.epa.gov/r10earth/tmdl.htm>

From: Don Waye/DC/USEPA/US  
To: David Powers/R10/USEPA/US@EPA, allison.castellan@noaa.gov, Jayne Carlin/R10/USEPA/US@EPA,  
Cc: David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA  
Date: 01/16/2013 08:17 AM  
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

I support Allison's edits, too.

From: David Powers/R10/USEPA/US  
 To: Jayne Carlin/R10/USEPA/US@EPA, David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Don Waye/DC/USEPA/US@EPA, allison.castellan@noaa.gov  
 Date: 01/16/2013 10:43 AM  
 Subject: Fw: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

# Ex. 5 - Deliberative

David Powers  
 Regional Manager for Forests and Rangelands  
 USEPA Region 10, OOO  
 805 SW Broadway, Suite 500  
 Portland, OR 97205  
 503-326-5874  
 powers.david@epa.gov

----- Forwarded by David Powers/R10/USEPA/US on 01/16/2013 07:12 AM -----

From: Allison Castellan - NOAA Federal <allison.castellan@noaa.gov>  
 To: Don Waye/DC/USEPA/US@EPA  
 Cc: Jayne Carlin/R10/USEPA/US@EPA, David Croxton/R10/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA  
 Date: 01/16/2013 06:43 AM  
 Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Jayne--

Some initial comments from me added to Don's edits. However, if this is going out under joint signature, I'll need additional time for my legal counsel and mnngt to review.

I also echo Dave and Don's comments that responding to NWEA (even very generally) may not be the most effective use of our time since Nina's already told Dave and me that she doesn't expect responses to her letters since she is a prolific responder. Her intent is to add to the record, not make more work for us responding to each letter.

Allison

On Tue, Jan 15, 2013 at 5:45 PM, <Waye.Don@epamail.epa.gov> wrote:  
 Jayne,

I have reservations about responding to this letter, but as your OD has made this decision, my comments are attached. I don't want to invite quid pro quo responses because attempting to keep up with Nina's prodigious output will deter us from our many obligations. beyond this, I can't help but wonder if the video clip she sent us points to an enforcement issue: manure to be applied to fields planted in tidal zones? For that matter...is it even legal for crops to be grown in

## Ex. 5 - Deliberative

Ex. 5 - Deliberative

I have copied our Ag person for CZARA (Katie Flahive) and am inviting her input on this draft response, as well.  
 (See attached file: NWEA Letter NOAA EPA Response Draft 1-15-13,dw.docx)

Don Waye  
U.S. Environmental Protection Agency  
Nonpoint Source Control Branch (OWOW/AWPD)

USPS Mailing Address: Office (FedEx/UPS delivery):  
Mail Code 4503T Room 7417H  
1200 Pennsylvania Ave, NW 1301 Constitution Ave, NW  
Washington, DC 20460 Washington, DC 20004

Phone: (202) 566-1170 Fax: (202) 566-1331  
Email: waye.don@epa.gov Website: epa.gov/nps

Jayne Carlin---01/15/2013 05:10:49 PM---Hi All, Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which

From: Jayne Carlin/R10/USEPA/US  
To: Don Waye/DC/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA  
Cc: David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA  
Date: 01/15/2013 05:10 PM  
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Hi All,

Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which is attached). Attached is the initial draft and I would welcome your feedback by COB Thursday.

[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13.docx" deleted by Don Waye/DC/USEPA/US]  
(See attached file: CZARA letter to Federal Agencies re Tillamook CAFO waste.pdf)  
Thanks!

Jayne

---

Jayne Carlin, Watersheds Unit  
US EPA, Region 10  
1200 6th Ave, Suite 900 (OWW-134)  
Seattle, WA 98101-3140  
(206) 553-8512, (206) 553-0165 (fax)  
carlin.jayne@epa.gov

<http://www.epa.gov/r10earth/tmdl.htm>

--

~~ <> ~ ~ >< ~ ~ <> ~ ~

Allison Castellan  
Coastal Management Specialist  
Office of Ocean and Coastal Resource Management N/ORM3  
National Oceanic and Atmospheric Administration, SSMC4  
Silver Spring, MD 20910  
Phone: 301-563-1125  
Fax: 301-713-4004  
allison.castellan@noaa.gov  
<http://coastalmanagement.noaa.gov>

[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13,dw\_ac.docx" deleted by Don Waye/DC/USEPA/US]

